

Case No. CIV-05-328-F

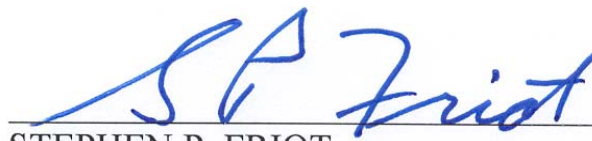
Plaintiff, in its response filed May 19, 2005, states that it objects to the intervention of the FSA Tribe as a party-defendant pursuant to Rule 24(a)(2) on the same grounds set forth in its Reply to Defendant's Response to Motion for Temporary Restraining Order and Preliminary Injunction, filed April 27, 2005 (docket entry no. 28), arguing that the FSA Tribe is not an indispensable party. It, however, also states that it does not object to the FSA Tribe's permissive intervention in this case in accordance with Rule 24(b).

Although defendants have not filed a written response to the motion and the time for filing an objection has not yet expired, defendants, through counsel in a telephone conference held this same date, state that defendants do not object to the FSA Tribe intervening as a party-defendant in this case.

As plaintiff does not object to the permissive intervention of the FSA Tribe in accordance with Rule 24(b) and the court likewise concludes that a permissive intervention would be appropriate, the court need not address whether the FSA Tribe shall be permitted to intervene as of right in accordance with Rule 24(a)(2). The court will permit the FSA Tribe to intervene as a party-defendant in accordance with Rule 24(b).

Accordingly, the Motion by Fort Sill Apache Tribe of Oklahoma for Leave to Intervene as Party-Defendant, filed May 12, 2005 (docket entry no. 40), is **GRANTED**, to the extent that Fort Sill Apache Tribe of Oklahoma ("FSA Tribe") will be permitted to intervene in this action, pursuant to Fed. R. Civ. P. 24(b), as a party-defendant. The Answer and Affirmative Defenses of Intervenor Fort Sill Apache Tribe of Oklahoma, which was filed of record by the FSA Tribe on May 12, 2005, prior to the ruling on the FSA Tribe's intervention motion, shall stand as the FSA Tribe's answer, and the court will call for no further response by the FSA Tribe to plaintiff's Complaint for Injunctive and Declaratory Relief and Costs filed March 23, 2005.

Dated May 20, 2005.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE